

No. 11(112)-3Lab-79/13691.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad/Labour Court, Rohtak in respect of the dispute between the workmen and management of M/s. Nibro Ltd., Delhi Road, Gurgaon.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 202 of 1977

between

SHRI RAKESH PAL, WORKMAN AND THE MANAGEMENT OF M/S. NIBRO
LIMITED, DELHI ROAD, GURGAON

Present.—

Shri Darshan Singh, for the workman.

Shri R. N. Rai, for the management.

AWARD

By order No. ID/GG/290-77/47723, dated 8th November, 1977 the Governor of Haryana referred the following dispute between the management of M/s. Nibro Limited, Delhi Road, Gurgaon and its workman Shri Rakesh Pal, to this Tribunal, for adjudication in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Rakesh Pal was justified and in order ? If not, to what relief is he entitled ?

On receipt of the order of reference, notices were issued to the parties. The Parties appeared and filed their pleadings. On the pleadings of the parties, following issues were framed on 20th January, 1978 :—

1. Whether the workman raised the demand with the management properly ? If not, to what effect ?
2. Whether the termination of services of the workman concerned was justified and in order ? If not, to what relief is he entitled ?

And the case was fixed for the evidence of the workman. The workman examined himself as WW-1 on issue No. 1 and closed his case. Then the case fixed for the evidence of the management. The management examined the Person of Officer Shri J. C. Chopra as MW-1. Thereafter the case was fixed for the evidence of the workman on issue No. 2. The workman examined himself on issue No. 2 as WW-1 and closed his case. Then the case was fixed for arguments. Arguments have been heard. Now I give my findings issuewise :—

Issue No. 1 :—The Workman proved his demand notice Ex. W-1 and the report of the Conciliation Officer Ex. W-2. The management have not rebutted. The law is very clear on this point that if the workman has not raised the demand with the management directly, it is not fatal at all. I, therefore, decide issue No. 1 in favour of the workman.

Issue No. 2 :—MW-1 stated that the workman was appointed a probationer,—vide Ex. M-1 and his services were terminated,—vide Ex. M-2 after a year as the management did not need his services. He admitted that there was a strike in the factory some three months back and all the workmen were on strike but he denied that the services of the workman terminated for the reasons of his being on strike. He further stated that the workmen had gheraoed the management and had burnt offices. He further stated that they had not employed any other person in place of the workman. The management did not produce receipt, register and vouchers in order to prove full and final payment to the workman. He denied that the workman was victimised for trade union activities. WW-1 stated that the management victimised him.

The management had charged the workman of an act of misconduct in order to hold an enquiry against the workman. The main contention of the management is that the workman was a Probationer and after completion of one year, they did not require his service and hence they terminated his services. Ex. M-1 is appointment letter by which the workman was appointed as a probationer for six months. I do not find any document on the record of this file by which the management extended the period of probation of the workman. Clause (b) of rule 3 of the certified standing orders of the management provide a period of six months for probation but it can be extended by three months at a time.

at the discretion of the management. And the maximum period of probation shall in no case exceed one year. As the management did not extend the period of probation the inference arises that his period of probation was not extended further and originally the workman was appointed on probation for six months only,—vide Ex. M-1. Moreover the law on the subject is that the services of the workman cannot be terminated simpliciter on the expiry of his probationary period. Although the services of a probationer can be terminated when his work is found unsatisfactory the management has not proved that the work of the workman unsatisfactory. The evidence of the management has no where proved unsatisfactory work of the probationer. If the management did not require his services on completion of one year's service, the workman could be retrenched as per rules and law. To terminate the services of a probationer on completion of one year on the ground that his services were not required any longer, is not legal and justified. I, therefore, decide issue No. 2 against the management.

In view of my findings on the issues, while answering the reference, I give my award that the termination of services of the workman was neither justified, nor in order. He is entitled to reinstatement with continuity of service and with full back wages, as the workman has remained unemployed throughout despite his effort to secure a job.

NATHU RAM SHARMA,

The 19th October, 1979.

Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

No. —— —, dated —— ——

Forwarded (four copies) to the Secretary, Government of Haryana, Labour & Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act.

NATHU RAM SHARMA

Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

No. 11(112)-3Lab-79/13891. —In pursuance of the power contained in section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the claimant and the management of M/s. Pawan Textile Industries, Panjab.

BEFORE SHRI GURMESH KARAKSHI, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ON 19/10/1979.

Reference No. 11(112)-3Lab-79/13891

1. The parties

SHRI SURAJ DEV SINGH, WORKMAN, AND T.D. SINGH, ATTACHMENT OFFICER, M/S. P. T. INDUSTRIES, PUNJAB, FOR THE

Present.—

No one, for the workman.

Shri Sudinder Kaur, for the management.

AWARD

This reference has been made in accordance with the Haryana Industrial Disputes Act, 1947 under his order No. 11(KNL/73-7), under section 17(1)(a) of the Industrial Disputes Act, for deciding the dispute existing between the workman Shri Suraj Dev Singh and the management of M/s. Pawan Textile Industries, Panjab.

The terms of the reference was whether the action of workman of Shri Suraj Dev Singh was justified and in order or not. If not, what is the extent of his liability.

After receiving the reference notice were issued to the parties and Mr. Sudinder Kaur appeared from the side of workman. Three or four opportunities were given to him to file the claim statement but he failed to file that and it was observed by my learned predecessor that the demand notice of the workman be treated as claim statement and Shri Jai Pal was directed to file his authority letter on the next date and notice was also issued to the workman. When Mr. Raghbir Singh appeared before this Court on the next date in response to the notice issued to the workman and stated before this Court

that he is secretary of the Engineering and Textile Mazdoor Union, Panipat and he has no instruction from the workman and his whereabouts are not known and he does not want to appear in this Court on behalf of the workman. The address of the workman on the file and on the reference is of the address of the union. My learned predecessor facing these circumstances ordered that *ex parte* proceedings be held against the workman and the management was directed to produce their evidence for the justification of the termination of the service of the workman. The management examined Shri Inder Mohan Gupta partner of the management as MW-1 who stated that Shri Suraj Dev was working with this concern in May, 78 and he left the service on his own accord in May. He filed photostat copy of a document, —vide which this workman received his full and final payment from the management. This Photostat copy is MM-1/1. This document bear the signature of the workman at two places where he himself has written that nothing remains due to him from the side of management. I see no reason to disbelieve this statement of the management and this document and in these circumstances I hold that the workman left his service on his own accord and he is not entitled to receive any relief because he has already received his full and final payment. I answer the reference while returning this award in these terms.

Dated the 2nd November, 1979.

GURMESH PARKASH,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

Endst. No. 3934, dated the 8th November, 1979.

Forwarded (Four Copies) to the Secretary to Government of Haryana, Labour & Employment Departments, Sirindigarh as required under section 15 of the Industrial Disputes Act.

GURMESH PARKASH,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

The 23rd November, 1979

No. 11(112)3-Lab-79/15218.—In pursuance of the provision of section 17 of the Industrial Dispute Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s. Precision Steel and Eng., Industries, Mathura Road, Faridabad.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA FARIDABAD

Reference No. 105 of 1977

between

SHRI BRIJ LAL WORKMAN AND THE MANAGEMENT OF M/S. PRECISION STEEL AND
ENGINEERING INDUSTRIES, MATHURA ROAD,
FARIDABAD.

Present.—

Shri Darshan Singh, for the workman.

Shri S. L. Gupta, for the management.

AWARD

By order No. ID/FD/82-D-77/27314, dated 22nd July, 1977, the Governor of Haryana referred the following dispute between the management of M/s. Precision Steel and Engineering Industries, Mathura Road, Faridabad and its workman Shri Brij Lal, to this Tribunal, for adjudication in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

“Whether the termination of services of Shri Brij Lal was justified and in order ? If not, to what relief is he entitled ?

On receipt of order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, following issues were framed on 3rd January, 1978.

1. Whether the workman abandoned the services of his own ?

2. Whether the workman lost lien on his job by remaining absent for more than the allowed time ?
3. Whether the termination of services of the workman was justified and in order ? If not, to what relief is he entitled ?

And the case was fixed for the evidence of the management. The management examined Shri Hari Singh Bhardwaj, their Time-keeper as MW-1 who deposed that the workman was absent from 18th January, 1976 to 10th December, 1976 and after that his name was struck off. He proved certain documents Ex. M-1 to M-9. The management also examined Shri Savan Banerjee, their Works Manager, as MW-2 who corroborated the statement of MW-1 stating that the management did not receive any leave application from the workman. The workman examined himself as WW-1 who deposed that he got treatment from ESI. He fell sick on 18th November, 1976. He produced Ex. W-8 to W-11 the ESI dispensary certificates and documents. He was admitted in the ESI hospital. He was operated upon. He also produced a photostat copy of the discharge certificate from the ESI hospital Ex. W-1. He had brought the original which was returned to him. The workman also examined one Shri Ram Dass another workman of the management. He stated that he attended ESI hospital. ESI hospital had given medical certificates to the workman which he had brought and had handed it over to the management and when the workman recovered from illness he reported for duty with fitness certificate. Then the Manager told him that the workman was not on their rolls. In cross-examination he stated that the workman suffered from Tarnia and that disease started on that very day. The workman was carried to the hospital in a Rickshaw. He had taken gate pass. He had brought three medical certificates pertaining to the workman.

Ex. M-1 is a letter dated 6th December, 1975 asking the workman regard to the reasons of his absence. It was sent to village Chandria, District Gonda (Uttar Pradesh) which was returned undelivered. Ex. M-4 is another letter, dated 21st January, 1977 informing the workman that his name was struck off on 10th December, 1976 which was sent to him by registered A. D., postal receipt is Ex. M-5, the same was also returned undelivered which is Ex. M-6 and M-7. Ex. M-8 is the copy of conciliation proceedings in which both the parties had stated what they have stated in their evidence before this Tribunal. Ex. W-1 is a photostat copy of a discharge certificate reading that the workman was admitted there on 7th November, 1976 at 100 A. M. and he was discharged from hospital on 7th December, 1976. Ex. W-2 is demand notice, Ex. W-3, W-4 are postal receipts regarding registration. Ex. W-5 some documents relating to ESI Corporation. Ex. W-6 and W-7 are documents of conciliation proceedings. Ex. W-8 to W-11 are documents of illness, admission in the hospital and of treatment of the workman. The evidence of the workman is convincing that he fell sick and was admitted to the ESI hospital. In these circumstances no inference can be drawn that the workman abandoned his service of his own. Issue No. 1, therefore, is decided against the management.

Issue No 2.—This issue and issue No. 1 relate to the something in substance. The evidence above discussed proves that the workman did not lose lien on his job by remaining absent. The workman was sick and having admitted to the ESI dispensary. Documents support the plea of the workman. Issue No. 2 is also decided against the management.

Issue No. 3.—When the workman was sick and was admitted to the ESI dispensary from 22nd November, 1976 to 7th December, 1976, striking off the name of the workman resulting in termination of his services on 10th December, 1976 is not justified. Issue No. 3 is also decided against the management. While answering the reference I give my award that the termination of services of the workman was neither justified nor in order. The receipt of medical certificates and application for sick leave is not proved by documentary evidence. One postal receipt regarding registration is dated 15th January, 1977 and the other is dated 31st January, 1977 which are Ex. W-3 and W-4. Ex. W-8 to W-11 also suggest that the workman had received out door treatment from the hospital even after 10th December, 1976. Ex. W-9 proves that. The workman has not stated that he tried to get some job else where and was unemployed since termination of his services. In these circumstances, it would be justiciable if he is reinstated with continuity of services with half back wages. I, therefore, give my award that the workman is entitled to reinstatement with continuity of services but with half back wages.

Dated the 13th November, 1979.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.